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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,214	01/27/2004	Mark A. Etter	JK014771	2579
28368 7590 05/07/2010 THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286				
EXAMINER RAO, SHEELA S				
ART UNIT 2123		PAPER NUMBER		
MAIL DATE 05/07/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/767,214

Applicant(s)

ETTER ET AL.

Examiner

Sheela Rao

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. This Office action is in response to papers filed on 21 January 2010.
2. Claims 1-30 are pending and 24-30 presented for examination, while claims 1-23 were previously withdrawn.

Response to Amendment

3. The rejection of claims 24-30 under 35 USC §103(a) as being unpatentable over Hadaway et al. (USPN 5,524,514) in view of Pease (US 2001/0028025 A1) is maintained and has been restated below.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,524,514 to Hadaway et al. in view of US Patent Application Publication No. US 2001/0028025 A1 to Pease.

The published invention by Hadaway et al. (hereinafter referred to as "Hadaway") teaches of a numerically controlled table saw fence assembly. The disclosure of the

invention of prior art teaches the limitations of the instant invention as stated herein below.

Claim 24 cites a table saw assembly, comprising a frame coupled with a table, the table having an aperture – see Fig. 1; a fence adjustably coupled with the table, the fence for establishing a distance from the aperture - the fence is shown in Fig. 1 as item 12; a power tool control system coupled with the fence, the power tool control system for establishing various measurements and settings of the table saw assembly – shown as item 13 in Fig. 1, the power tool control system further comprising: a base for coupling with the fence - the placement of the control system is explained in col. 2 beginning at line 16 including a microcontroller (13), i.e. power tool control system, is coupled to the fence system (12) of the table saw, see col. 1:ll. 20-22, 39-45, col. 2:ll. 16-29, and patented claim 1. While Hadaway teaches the elements of the table saw assembly including a fence, the patented invention falls short of teaching of a non-contact measurement and alignment device coupled with the base, the non-contact measurement and alignment device operative with the table saw assembly for determining table saw assembly settings as per the instant claims. However, the prior art of Pease teaches the presence and use of a non-contact measurement and alignment device in a similar setting. A non-contact measurement and alignment device coupled with the base, the non-contact measurement and alignment device operative with the table saw assembly – is shown as item 10 in Fig. 6; a graphical user interface communicatively coupled with the non-contact measurement and alignment device, the graphical user interface for user operation of the table saw assembly for indicating at least two of the table saw assembly settings – shown as item 10; and a display menu

which logically relates folders providing table saw assembly setting options and readouts of current settings - see item 10 in Fig. 6. Pease discloses the device to have an image processor allowing its display to be graphic and converts the various user inputs via a touch-screen into multiple commands for the device. These various user inputs and touch-screen display represent the folders presented by the device to the user, as stated in paragraphs [0020-0021].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the portable power tool control system as that of Pease upon a table saw assembly as shown by Hadaway in lieu of the microcontroller used by Hadaway so as to have a power tool control system that is coupled with the assembly on a table saw.

Claims 25 and 26 further define the non-contact measurement and alignment device as comprising a laser source wherein the laser source is a laser light indicia. The disclosure of Pease explains the presence and use of laser light in paragraph [0015].

Claim 27 includes a kerf correction within the non-contact measurement and alignment device. By definition, according to the Online Merriam-Webster dictionary, a kerf is stated as being "the width of a cut made by a saw or cutting torch." With this interpretation of the claimed limitation, the disclosure of Pease teaches the non-contact measurement and alignment device taking the measurement of a width of an object as described in paragraph [0023].

Claim 28 defines the non-contact measurement and alignment device as a modular device. The reference of prior art shows in Fig.1 the modular aspect of the invention, paragraphs [0014-0015] describe the portable measurement device.

Claim 29 requires a graphical user interface to be communicatively coupled with the non-contact measurement and alignment device in the table saw assembly. Please teaches the use of a graphical user interface, by showing item 16 in Fig. 1 and describing this element in paragraph [0021].

Claim 30 has the table saw assembly further comprising a computing system communicatively coupled with the non-contact measurement and alignment device and the graphical user interface. Paragraph [0019] explains the duties of the controller or computing system of the published invention.

Response to Arguments

6. Applicant's arguments filed on 21 January 2010 have been fully considered but they are not persuasive.

Applicant has argued that the applied references of prior art fail to teach and/or fairly suggest the limitations of the instant invention. "The Hadaway reference makes no suggestion to direct the fence by anything other than operator input" is first argued. Applicant cites column 1, lines 44-47 and column 2, lines 8-12 in support of the above stated argument. The issue raised has no specific relevance to the instant invention especially since directing of a fence by anything other than an operator input has not been claimed. However, the teachings of the prior art to Hadaway do not preclude the directing of the fence. The prior art of Hadaway teaches the elements of the table saw

assembly including a fence, while the invention of Pease teaches of a non-contact measurement and alignment device coupled with the base, the non-contact measurement and alignment device operative with the table saw assembly for determining table saw assembly settings as per the instant claims. It is for these elements that the references of prior art are combined to collectively teach the claimed limitations.

Next, Applicant argues that the Pease reference "makes no suggestion to mount the measurement device at any other part of the table saw other than the working surface" and uses Figure 6, page 3 – paragraph [0033] for support. The claimed limitation "a non-contact measurement and alignment device coupled with the base" is stated and is taught by Pease in Figure 6 as item 10 where item 612 is a slide. In addition, Hadaway shows in Figure 1, item 13 as a measurement and alignment device that is coupled to the base as claimed. Applicant continues by stating that the "Pease reference limits the mounting location to the work table and makes no reference or suggestion to mounting the measurement device anywhere else, such as for example, the fence." As per the language of the instant claims, the "non-contact measurement and alignment device [is] coupled with the base, the non-contact measurement and alignment device operative with the table saw assembly ...". As combination of the references of prior art to Hadaway and Pease collectively teach of a hand-held measurement device that is coupled to the base along with an alignment instrument are both operative with the table saw assembly as claimed. As stated in the previous Office action, the references of Hadaway and Pease are combined to teach the obviousness of the instant invention. In response to applicant's arguments against the references

individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Lastly, Applicant argues that neither of the references of prior art “teach or suggest coupling a non-contact measurement device to a fence, as recited in independent claim 24”. This apparent feature of the instant invention is not found in claim 24 nor any of the cited dependent claims. In response to applicant’s argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., as aforementioned) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela Rao whose telephone number is (571) 272-3751. The examiner can normally be reached Monday - Wednesday from 9:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez, can be reached on (571) 272-3753. The fax number for the organization where this application or any proceeding papers has been assigned is (571) 273- 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. It should be noted that status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see [http:// pair-direct.uspto.gov](http://pair-direct.uspto.gov). Should any questions arise regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheela Rao/
Examiner, Art Unit 2123
May 3, 2010

/Paul L Rodriguez/

Supervisory Patent Examiner, Art Unit 2123